

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION**

JAMON T. BRIM,)
)
Plaintiff,)
)
v.) CIVIL ACTION NO.
)
MIDLAND CREDIT)
MANAGEMENT, INC.,) 5:10-cv-0369-IPJ
)
Defendant.)
)

UNOPPOSED MOTION TO SUPPLEMENT TRIAL RECORD

Defendant Midland Credit Management, Inc. (“Midland”) moves the Court to supplement the record to include the testimony of Dell Financial Services, LLC in the trial transcript. In support of this motion, Midland states as follows:

1. During trial, the videotaped deposition of Dell Financial Services, LLC was played to the jury. The Court instructed the jury to disregard only three discrete portions of the testimony: 31:8-14; 36:24-37:25; and 42:20-24. (Trial Tr. vol. III, 223:10-229:18). The remainder of the direct and redirect testimony¹ was received into evidence without objection and without limiting instruction.

¹ Midland believes that a portion of Plaintiff’s cross-examination of Dell Financial Services, LLC was also played, but that Plaintiff’s counsel also agreed to skip over a portion of the cross-examination. Because the transcript only says “(Videotape played)” without further detail, Midland cannot ascertain what those portions may have been.

2. The trial transcript received by undersigned counsel does not contain the testimony of Dell Financial Services, LLC. At the part of the trial where Dell Financial Services, LLC testified, the trial transcript simply reads: "(Videotape played)." (*Id.* at 226:24).

3. For completeness of the trial transcript and the record of the proceedings, the record should be supplemented to include the testimony of Dell Financial Services, LLC that was admitted into evidence. Otherwise, the testimony may not be available for purposes of appellate review (if needed by either party).

4. The entire transcript of the testimony of Dell Financial Services, LLC is attached as Exhibit A to this motion.

5. Counsel for Plaintiff Jamon T. Brim does not oppose this motion.

WHEREFORE, the premises considered, Midland respectfully requests that the Court supplement the trial record with the testimony of Dell Financial Services, LLC that was played into evidence.

Respectfully submitted this 6th day of April 2011.

/s/ Eric B. Langley

One of the Attorneys for Defendant
Midland Credit Management, Inc.

OF COUNSEL:

Eric B. Langley

Jason B. Tompkins

BALCH & BINGHAM LLP

Post Office Box 306

Birmingham, Alabama 35201-0306

Telephone: (205)251-8100

Facsimile: (205)226-8798

elangley@balch.com

jtompkins@balch.com

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of April 2011, I have filed the above and foregoing via CM/ECF, which will notify the following counsel of record:

Penny Hays Cauley
HAYS CAULEY, P.C.
549 West Evans Street, Suite E
Florence, SC 29501
phc917@hayscauley.com

Ronald C. Sykstus
BOND, BOTES, SYKSTUS, TANNER & EZZELL, P.C.
415 Church Street, Suite 100
Huntsville, AL 35801

Leonard A Bennett
CONSUMER LITIGATION ASSOCIATES PC
12515 Warwick Blvd, Suite 100
Newport News, VA 23606
Email: lenbennett@clalegal.com

/s/ Eric B. Langley
Of Counsel

Exhibit A

Condensed Transcript

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS

JAMON T. BRIM,

Plaintiffs,

CA NO. 5:10-CV-369-IPJ

VS.

DELL FINANCIAL SERVICES,
LLC, ET AL,

Defendants.

ORAL AND VIDEOTAPED DEPOSITION OF

RACHEL GARLOCK

January 7, 2011
10:06 a.m.

3101 Bee Caves Road
Suite 220
Austin, Texas

Janalyn Reeves, CSR
in and for the State of Texas

<p style="text-align: center;">IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS</p> <table border="0" style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 10%;">JAMON T. BRIM,</td><td style="width: 10%;">Plaintiffs,</td><td style="width: 10%;">VS.</td><td style="width: 10%;">DELL FINANCIAL SERVICES,</td><td style="width: 10%;">LTC, ET AL,</td><td style="width: 10%;">Defendants.</td><td style="width: 10%;"></td></tr> <tr><td colspan="6" style="text-align: center;">*****</td><td style="text-align: center;">*****</td></tr> <tr><td colspan="6" style="text-align: center;">ORAL AND VIDEOTAPED DEPOSITION OF RACHEL GARLOCK JANUARY 7, 2011</td><td style="text-align: center;">*****</td></tr> <tr><td colspan="6" style="text-align: center;">*****</td><td style="text-align: center;">*****</td></tr> </table> <p style="text-align: center;">ORAL AND VIDEOTAPED DEPOSITION OF RACHEL GARLOCK, produced as a witness at the instance of the Defendants, and duly sworn, was taken in the above-styled and numbered cause on January 7, 2011, from 10:06 a.m. to 11:31 a.m., before Janalyn Reeves, CSR in and for the State of Texas, reported by machine shorthand, at the offices of ESQUIRE DEPOSITION SERVICES, 3101 Bee Caves Road, Suite 220, Austin, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.</p>	JAMON T. BRIM,	Plaintiffs,	VS.	DELL FINANCIAL SERVICES,	LTC, ET AL,	Defendants.		*****						*****	ORAL AND VIDEOTAPED DEPOSITION OF RACHEL GARLOCK JANUARY 7, 2011						*****	*****						*****	<p style="text-align: center;">1 INDEX</p> <table border="0" style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 10%;">1 Appearances.....</td><td style="width: 10%;">2</td></tr> <tr><td>2</td><td></td></tr> <tr><td>3</td><td></td></tr> <tr><td>4</td><td></td></tr> <tr><td>5</td><td></td></tr> <tr><td>6</td><td></td></tr> <tr><td>7</td><td></td></tr> <tr><td>8</td><td></td></tr> <tr><td>9</td><td></td></tr> <tr><td>10</td><td></td></tr> <tr><td>11</td><td></td></tr> <tr><td>12</td><td></td></tr> <tr><td>13</td><td></td></tr> <tr><td>14</td><td></td></tr> <tr><td>15</td><td></td></tr> <tr><td>16</td><td></td></tr> <tr><td>17</td><td></td></tr> <tr><td>18</td><td></td></tr> <tr><td>19</td><td></td></tr> <tr><td>20</td><td></td></tr> <tr><td>21</td><td></td></tr> <tr><td>22</td><td></td></tr> <tr><td>23</td><td></td></tr> <tr><td>24</td><td></td></tr> <tr><td>25</td><td></td></tr> </table> <p style="text-align: center;">1 EXHIBITS</p> <table border="0" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;">NUMBER</th> <th style="width: 80%;">DESCRIPTION</th> <th style="width: 10%;">PAGE</th> </tr> </thead> <tbody> <tr><td>1</td><td>Receipt</td><td>8</td></tr> <tr><td>2</td><td>Receipt</td><td>8</td></tr> <tr><td>3</td><td>Terms and Conditions</td><td>9</td></tr> <tr><td>4</td><td>Transaction Detail Report</td><td>11</td></tr> <tr><td>5</td><td>Transactions Processed on Account</td><td>15</td></tr> <tr><td>6</td><td>Information from System of Record</td><td>17</td></tr> <tr><td>7</td><td>Bank Statement</td><td>28</td></tr> <tr><td>8</td><td>Complaint Activity Report from Better Business Bureau</td><td>35</td></tr> <tr><td>9</td><td>Credit Bureau Dispute Form</td><td>38</td></tr> </tbody> </table>	1 Appearances.....	2	2		3		4		5		6		7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		NUMBER	DESCRIPTION	PAGE	1	Receipt	8	2	Receipt	8	3	Terms and Conditions	9	4	Transaction Detail Report	11	5	Transactions Processed on Account	15	6	Information from System of Record	17	7	Bank Statement	28	8	Complaint Activity Report from Better Business Bureau	35	9	Credit Bureau Dispute Form	38
JAMON T. BRIM,	Plaintiffs,	VS.	DELL FINANCIAL SERVICES,	LTC, ET AL,	Defendants.																																																																																																								
*****						*****																																																																																																							
ORAL AND VIDEOTAPED DEPOSITION OF RACHEL GARLOCK JANUARY 7, 2011						*****																																																																																																							
*****						*****																																																																																																							
1 Appearances.....	2																																																																																																												
2																																																																																																													
3																																																																																																													
4																																																																																																													
5																																																																																																													
6																																																																																																													
7																																																																																																													
8																																																																																																													
9																																																																																																													
10																																																																																																													
11																																																																																																													
12																																																																																																													
13																																																																																																													
14																																																																																																													
15																																																																																																													
16																																																																																																													
17																																																																																																													
18																																																																																																													
19																																																																																																													
20																																																																																																													
21																																																																																																													
22																																																																																																													
23																																																																																																													
24																																																																																																													
25																																																																																																													
NUMBER	DESCRIPTION	PAGE																																																																																																											
1	Receipt	8																																																																																																											
2	Receipt	8																																																																																																											
3	Terms and Conditions	9																																																																																																											
4	Transaction Detail Report	11																																																																																																											
5	Transactions Processed on Account	15																																																																																																											
6	Information from System of Record	17																																																																																																											
7	Bank Statement	28																																																																																																											
8	Complaint Activity Report from Better Business Bureau	35																																																																																																											
9	Credit Bureau Dispute Form	38																																																																																																											
<p style="text-align: center;">1 APPEARANCES</p> <p style="text-align: center;">2 FOR THE PLAINTIFF: Ms. Penny Hays Cauley (Via Telephone) 3 HAYS CAULEY, PC 4 549 West Evans Street, Suite E 5 Florence, South Carolina 29501 6 (843) 665-1717</p> <p style="text-align: center;">7 FOR MIDLAND CREDIT MANAGEMENT: Mr. Eric B. Langley 8 BALCH & BINGHAM, LLP 9 1901 South Avenue North Suite 1500 Birmingham, Alabama 35203 (205) 226-8772</p> <p style="text-align: center;">10 FOR DELL FINANCIAL SERVICES: Mr. D. Keith Andress 11 LAW OFFICES OF BAKER DONELSON BEARMAN CALDWELL & 12 BERKOWITZ, PC 13 420 20th Street North, Suite 1600 Birmingham, Alabama 35203 (205) 250-8367</p> <p style="text-align: center;">14 ALSO PRESENT: Naomi Aldape 15 Norm Wiley - Videographer</p>	<p style="text-align: center;">2</p> <p style="text-align: center;">1 THE REPORTER: This is the court reporter. Ms. Cauley, are you going to want a copy of the deposition?</p> <p style="text-align: center;">4 MS. CAULEY: Yes.</p> <p style="text-align: center;">5 THE VIDEOGRAPHER: This is the videotaped deposition of Rachel Garlock in the matter of Jamon Brim versus Dell Financial Services, being heard in the United States District Court, Northern District of Alabama, Case No. 5:10-CV-369-IPJ.</p> <p style="text-align: center;">10 This deposition is being held at the office of Esquire Deposition Solutions on January 7, 2011. The time is approximately 10:07 a.m. My name is Norman Wiley. I'm the videographer. The court reporter is Janalyn Reeves.</p> <p style="text-align: center;">15 Counsel, will you please introduce yourselves and affiliations and the witness will be sworn in.</p> <p style="text-align: center;">18 MR. LANGLEY: This is Eric Langley here for Midland Credit Management.</p> <p style="text-align: center;">20 MR. ANDRESS: Keith Andress here for Dell Financial Services.</p> <p style="text-align: center;">22 MS. CAULEY: I'm Penny Cauley, on behalf of Jamon Brim.</p> <p style="text-align: center;">24 RACHEL GARLOCK, 25 having being first duly sworn, testified as follows:</p>																																																																																																												



ESQUIRE

an Alexander Gallo Company

Toll Free: 800.880.2546
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

<p>1 EXAMINATION 2 BY MR. LANGLEY: 3 Q. Ms. Garlock, thank you for being here today. 4 My name is Eric Langley. I am a lawyer that represents 5 Midland Credit Management in this lawsuit that we're 6 here about today. 7 A. Uh-huh. 8 Q. Do you understand that you're here today 9 pursuant to a deposition trial subpoena? 10 A. Yes, sir. 11 Q. Have you and I ever met before this morning 12 just a minute ago? 13 A. No, sir. 14 Q. And, Ms. Garlock, would you please tell the 15 jury your full name? 16 A. Rachel Renee Garlock. 17 Q. Ms. Garlock, by whom are you currently 18 employed? 19 A. Dell Financial Services. 20 Q. What is Dell Financial Services? 21 A. Dell Financial Services is the finance company 22 for Dell, Inc., which is Dell Computers. We finance 23 any of the -- the products that Dell, Inc. sales. 24 Q. Ms. Garlock, right before the deposition your 25 counsel had provided me with some documents. Are those</p>	<p>5</p> <p>1 A. I guess it was mid -- mid last year when the 2 counsel brought the account over to my team to be 3 researched for the payment. 4 Q. Ms. Garlock, what is your position with Dell 5 Financial Services? 6 A. Accounts receivable manager. 7 Q. And as accounts receivable manager, what are 8 your job responsibilities? 9 A. I currently manage payment research for Dell 10 Financial Services, as well as refund requests. I also 11 manage our -- some of our payment vendors. We have a 12 lockbox vendor that I manage, as well as we have an 13 offshore site that I manage that also handles various 14 different payment postings. 15 Q. Are you familiar with Dell Financial Services' 16 relationships with various debt buyers? 17 A. A little bit. I mean, I wouldn't say I'm an 18 expert at it or anything, but I've had -- have had some 19 situations with it, I guess. 20 Q. Are you familiar with Midland Funding, LLC? 21 A. I've heard of Midland Funding. 22 Q. Are you aware that Midland Funding, LLC is the 23 entity that actually purchased a debt from Dell 24 Financial Services in the name of Mr. Brim? 25 A. Yes, sir.</p>
<p>1 documents that are from your file at Dell Financial 2 Services? 3 A. Yes, sir. 4 Q. Are you familiar with those documents? 5 A. Yes, sir. 6 Q. Are you also familiar with document produced 7 by Dell earlier in this lawsuit that bear what we call 8 Bates labels? 9 A. I'm not sure exactly which ones are labeled 10 that, but I have seen what was submitted. 11 Q. At some point during my questions if I show 12 you some documents that have a Bates label on them and 13 you're confused about what they mean, just let me know 14 and we can work through and make sure that you're 15 looking at a document that you understand and that 16 you're comfortable with. 17 A. Okay. 18 Q. Is that fair? 19 A. Yes, sir. 20 Q. Ms. Garlock, are you familiar with a Dell 21 Financial Services account held by the plaintiff in 22 this case, Mr. Jamon Brim? 23 A. Yes, sir. 24 Q. And how did you first come to be familiar with 25 that account?</p>	<p>6</p> <p>1 Q. Ms. Garlock, when did Mr. Brim open an account 2 with Dell Financial Services? 3 A. September of 2004. 4 Q. Why did Mr. Brim open an account based on your 5 knowledge and understanding of the documents? 6 A. I show that he purchased a computer system as 7 well as a surge protector. Those were the 8 two purchases that he had made in September of '04. 9 (Exhibit Nos. 1 and 2 marked) 10 Q. (BY MR. LANGLEY) Ms. Garlock, I'm showing you 11 what I've marked as Exhibits 1 and 2. 12 A. Okay. 13 Q. Can you identify those documents? 14 A. Yes. This is the Dell receipt that goes along 15 with any of the purchases, and it just describes the 16 purchases that were made by the customer. 17 Q. Are the purchases reflected on Exhibits 1 and 18 2 the purchases that were made on Mr. Brim's account 19 with Dell Financial Services? 20 A. Yes, sir. 21 Q. To your knowledge, are these the only 22 purchases made on that account? 23 A. Yes, sir. 24 Q. Ms. Garlock, when a customer opens an account 25 with Dell Financial Services, do they execute some sort</p>

Rachel Garlock

January 7, 2011

<p>9</p> <p>1 of agreement that governs the terms of that account?</p> <p>2 A. Yes. It is considered a revolving account,</p> <p>3 which is similar to a credit card. So the customer</p> <p>4 does have Ts and Cs, which is terms and conditions,</p> <p>5 that are provided to them when the account is opened.</p> <p>6 (Exhibit No. 3 marked)</p> <p>7 Q. (BY MR. LANGLEY) Let me show you what I've</p> <p>8 marked as Exhibit 3.</p> <p>9 A. Uh-huh.</p> <p>10 MS. CAULEY: Eric, can you give us</p> <p>11 Bates -- can you give me Bates numbers?</p> <p>12 MR. LANGLEY: Yes. I'm sorry, Penny.</p> <p>13 The Bates numbers to Exhibit 1 were Dell -- this is</p> <p>14 from the Dell production. And all of them will be from</p> <p>15 the Dell production unless otherwise stated --</p> <p>16 Document 65 through 67. Exhibit 2 was Document 68.</p> <p>17 MS. CAULEY: Thank you.</p> <p>18 MR. LANGLEY: And Exhibit 3 is Bates</p> <p>19 range 71 through 72.</p> <p>20 Q. (BY MR. LANGLEY) Ms. Garlock, what is</p> <p>21 Exhibit 3?</p> <p>22 A. The terms and conditions of the account that</p> <p>23 was opened.</p> <p>24 Q. Are these the terms and conditions that</p> <p>25 governed Mr. Brim's account with Dell Financial</p>	<p>1 how that payment was made to Dell Financial Services.</p> <p>2 Q. Was the bank statement itself insufficient to</p> <p>3 allow Dell Financial Services to track Mr. Brim's</p> <p>4 payment?</p> <p>5 A. Yes.</p> <p>6 Q. Was Mr. Brim advised of this fact?</p> <p>7 A. Yes.</p> <p>8 Q. How did Dell Financial Services ultimately</p> <p>9 determine what happened with Mr. Brim's payment?</p> <p>10 A. In August of 2010 our counsel provided the</p> <p>11 transaction detail report. That was provided to them</p> <p>12 from Mr. Brim's counsel. And on that transaction</p> <p>13 detail report we were able to confirm where that</p> <p>14 payment was posted based on the account number that was</p> <p>15 provided on the transaction detail report.</p> <p>16 (Exhibit No. 4 marked)</p> <p>17 Q. (BY MR. LANGLEY) I'm showing you what I've</p> <p>18 marked as Exhibit 4. Is Exhibit 4 the transaction</p> <p>19 detail report that you were just referencing?</p> <p>20 A. Yes, sir.</p> <p>21 Q. What is it about this transaction detail</p> <p>22 report that allowed Dell Financial Services to</p> <p>23 determine what happened with Mr. Brim's payment?</p> <p>24 A. The account number that is listed right under</p> <p>25 Mr. Brim's name. That is the -- our Dell Financial</p>
<p>10</p> <p>1 Services?</p> <p>2 A. Yes.</p> <p>3 Q. Is this the entirety of the terms and</p> <p>4 conditions that governed Mr. Brim's account with Dell</p> <p>5 Financial Services?</p> <p>6 A. Yes.</p> <p>7 Q. Did Mr. Brim ever pay the amounts charged to</p> <p>8 his account with Dell Financial Services?</p> <p>9 A. Yes.</p> <p>10 Q. When were those paid?</p> <p>11 A. According to the bank statement, it was paid</p> <p>12 on November 6th of 2004.</p> <p>13 Q. Was Dell Financial Services aware that the</p> <p>14 payment had been made on November 6, 2004?</p> <p>15 A. No.</p> <p>16 Q. When did Dell become aware that Mr. Brim had</p> <p>17 paid his account on November 6, 2004?</p> <p>18 A. The bank statement was provided by Mr. Brim.</p> <p>19 I apologize. I don't have the notes right in front of</p> <p>20 me, but I believe it was in May or June of 2005 is when</p> <p>21 the bank statement was provided that showed the payment</p> <p>22 on the account. But, unfortunately, the bank statement</p> <p>23 only showed a payment was made to Dell Financial</p> <p>24 Services. So we weren't able to locate that -- that</p> <p>25 payment without additional information to show exactly</p>	<p>12</p> <p>1 Services account number minus the first four digits</p> <p>2 because our account numbers are 19 digits long.</p> <p>3 Q. Mr. Garlock, are you talking about the second</p> <p>4 page of Exhibit 4?</p> <p>5 A. Yes. Yes. Second page right under Mr. Brim's</p> <p>6 name there's an account number that starts in 4501. So</p> <p>7 based on that information, we were able to look up that</p> <p>8 account, because that is one of our account numbers,</p> <p>9 and we were able to locate that payment posted to that</p> <p>10 account.</p> <p>11 Q. And what happened with that particular</p> <p>12 payment?</p> <p>13 A. It was posted to another customer's account.</p> <p>14 Q. Do you know how that occurred?</p> <p>15 A. No, I do not.</p> <p>16 Q. Is that a transaction that Dell Financial</p> <p>17 Services itself handles or does Dell Financial Services</p> <p>18 use an outside vendor for that?</p> <p>19 A. I do not show exactly how that payment -- you</p> <p>20 know, what agency that payment was made with. We do</p> <p>21 have an outside agency that does -- that at the time</p> <p>22 was taking our pay-by-phone payments.</p> <p>23 Q. If Dell Financial Services had this</p> <p>24 information in Exhibit 4 in 2004 and 2005, would it</p> <p>25 have been able to trace Mr. Brim's payment?</p>

<p>1 A. Yes, sir.</p> <p>2 Q. Is the information in Exhibit 4 the 3 information that Dell Financial Services asked Mr. Brim 4 to provide in 2005?</p> <p>5 A. Yes. It's -- it is a transaction detail 6 report.</p> <p>7 MS. CAULEY: Objection, states facts not 8 in evidence.</p> <p>9 THE REPORTER: Pardon?</p> <p>10 MS. CAULEY: I object to that question. 11 It states facts not in evidence.</p> <p>12 Q. (BY MR. LANGLEY) Ms. Garlock, earlier you had 13 mentioned that at some point Dell Financial Services 14 advised Mr. Brim that he needed to provide a 15 transactional detail report, correct?</p> <p>16 A. Yes, sir, uh-huh.</p> <p>17 Q. And I think you told me just a minute ago that 18 Exhibit 4 is the transactional detail report that you 19 were referring to?</p> <p>20 A. Yes, sir.</p> <p>21 Q. So had Mr. Brim provided the information in 22 Exhibit 4 in 2005 when Dell Financial Services 23 requested it, would it have been able to trace 24 Mr. Brim's payment?</p> <p>25 A. Yes, sir.</p>	<p>13</p> <p>1 familiar with the term "charge-off"?</p> <p>2 A. Yes, sir.</p> <p>3 Q. What is a charge-off?</p> <p>4 A. A charge-off means that the customer has gone 5 more than 180 days past due.</p> <p>6 Q. At some point did Dell Financial Services 7 charge off Mr. Brim's account?</p> <p>8 A. Yes.</p> <p>9 Q. Do you know when that occurred?</p> <p>10 A. It occurred in May of 2005. I don't know the 11 exact date offhand.</p> <p>12 Q. At the time of the charge-off what did Dell 13 Financial Services show as Mr. Brim's balance?</p> <p>14 A. I don't -- I don't have that exactly with me. 15 I know it was \$1,300 and change, I believe. Sorry. 16 I -- I don't know offhand.</p> <p>17 Q. No, that's okay. (Exhibit No. 5 marked)</p> <p>18 Q. (BY MR. LANGLEY) Ms. Garlock, I'm showing you 19 what I've marked as Exhibit 5.</p> <p>20 A. Uh-huh.</p> <p>21 Q. Can you identify this document?</p> <p>22 MR. LANGLEY: And, Penny, this is 23 Document 102.</p> <p>24 THE WITNESS: Yes. This is -- actually</p> <p>14</p> <p>1 shows all the transactions processed on Mr. Brim's 2 account.</p> <p>3 Q. (BY MR. LANGLEY) Is there anything on 4 Exhibit 5 that allows you to state with specificity the 5 balance as reflected in Dell Financial Services' 6 records at the time it charged off Mr. Brim's account?</p> <p>7 A. Yes. That would be the total, which is 8 \$1,381.01.</p> <p>9 Q. Ms. Garlock, at some point I think you said 10 earlier this particular account was sold to Midland. 11 Is that accurate?</p> <p>12 A. Yes, it was sold.</p> <p>13 Q. Do you know what amount of the account was 14 sold to Midland?</p> <p>15 A. No, I do not.</p> <p>16 Q. Would it have been anything less than the 17 total amount at the time of the charge-off?</p> <p>18 A. I do not know the answer to that question. I 19 apologize.</p> <p>20 Q. Do you know if there are any Dell Financial 21 Services' records that have been produced that would 22 allow you to answer that question?</p> <p>23 A. No.</p> <p>24 Q. You also mentioned earlier that in August of 25 2010, Dell Financial Services was able to determine</p>
---	---

<p>1 that Mr. Brim's payment in November 2004 had been 2 misapplied to another customer's account. What was the 3 name of that customer, if you know?</p> <p>4 A. Hilda Cervantes.</p> <p>5 Q. Where does Ms. Cervantes live?</p> <p>6 A. Los Angeles, California.</p> <p>7 Q. And so is it fair to say that Ms. Cervantes 8 just got a \$950 credit on her account?</p> <p>9 A. Correct, yes. We do not show that we were 10 notified.</p> <p>11 Q. So out of the blue she gets a \$950 credit?</p> <p>12 A. Correct.</p> <p>13 Q. Did she ever call Dell Financial Services and 14 tell you this was a mistake?</p> <p>15 A. No, sir.</p> <p>16 Q. If she had, would your notes in your account 17 reflect that?</p> <p>18 A. Yes, sir.</p> <p>19 (Exhibit No. 6 marked)</p> <p>20 Q. (BY MR. LANGLEY) I'm showing you what has 21 been marked as Exhibit 6, which bears the Bates 22 numbers 80 through 101.</p> <p>23 Ms. Garlock, can you identify this 24 document?</p> <p>25 A. These is -- is the notes and the information</p>	<p>17</p> <p>1 notes regarding conversations with Mr. Brim. 2 A. Correct. 3 Q. You're familiar with those? 4 A. Yes, uh-huh. 5 Q. When a Dell Financial Services' representative 6 is having a conversation with a customer, are the notes 7 input into the system contemporaneous with that 8 conversation?</p> <p>9 A. They are manually put into the system by 10 the -- by the agent.</p> <p>11 Q. At or near the time of the conversation?</p> <p>12 A. Correct, yes.</p> <p>13 Q. So, in other words, there's not a time lag 14 between when the notes -- between when the conversation 15 is had and when the notes are entered?</p> <p>16 A. There should not be. But, like I said, it's 17 manually entered by the agent.</p> <p>18 Q. Once notes are entered on the system can they 19 be modified?</p> <p>20 A. No.</p> <p>21 Q. I want to ask you a few questions about some 22 of the specific items on Exhibit 6.</p> <p>23 A. Okay.</p> <p>24 Q. I note that at the top left of each page 25 there's some information typewritten?</p>
<p>1 from our system of record. This is where the 2 customers -- where we house our customers' accounts.</p> <p>3 Q. Does this system have a name that's used 4 within Dell Financial Services?</p> <p>5 A. Yes. It's called Fiserv.</p> <p>6 THE REPORTER: Called what?</p> <p>7 THE WITNESS: Fiserv. F -- do you 8 want -- do you need me to spell it?</p> <p>9 MR. ANDRESS: Yes.</p> <p>10 THE WITNESS: Okay. F-i-s-e-r-v.</p> <p>11 THE REPORTER: Thank you.</p> <p>12 THE WITNESS: Uh-huh.</p> <p>13 Q. (BY MR. LANGLEY) What is the purpose of the 14 Fiserv system?</p> <p>15 A. Fiserv houses all of the customer information; 16 customer's name, address, their transactions, payments. 17 Basically it's -- it's our system of record.</p> <p>18 Q. Are the documents -- are the pages within 19 Exhibit 6 records that are prepared and maintained in 20 Dell Financial Services' regular course of business?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Are the entries in these records made 23 contemporaneous with the events described?</p> <p>24 A. Can you rephrase that? I'm sorry.</p> <p>25 Q. For example, in some of the pages there are</p>	<p>18</p> <p>1 A. Yes, sir.</p> <p>2 Q. Is that information that is part of the system 3 or are those just notes provided to help the reader of 4 this document understand?</p> <p>5 A. Yes, they were just notes provided to assist.</p> <p>6 Q. So the notes on the top left are not part of 7 the Fiserv system?</p> <p>8 A. Correct.</p> <p>9 Q. Within what appears to be the screen shot on 10 each page at the upper right-hand corner there is a 11 date of 4/9/2010. Do you see that?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Is that the date on which this particular 14 screen shot was printed?</p> <p>15 A. Correct.</p> <p>16 Q. On the first page of Exhibit 6, on the 17 left-hand side, it lists an account number, and then 18 beneath it it has the name "Jamon Brim"?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Is Exhibit 6 and the screen shots contained 21 therein the entirety of Dell Financial Services' Fiserv 22 system as it relates to Mr. Brim's account?</p> <p>23 A. It's certain screens within the system. It's 24 not -- it's every screen that we have in the system.</p> <p>25 Q. What type of screens are not included in the</p>

<p>21</p> <p>1 pages marked collectively as Exhibit 6, if you know?</p> <p>2 A. I mean, like I said, we do have multiple</p> <p>3 screens. You know, we don't have the statement screens</p> <p>4 listed in here.</p> <p>5 Q. What is a statement screen?</p> <p>6 A. The statement screen will show the agent what</p> <p>7 information was listed on the statement. So it will</p> <p>8 slow the payment due date, any transactions. And it --</p> <p>9 and it goes by date of the statement.</p> <p>10 Q. If you need a minute to flip through to answer</p> <p>11 this question, that's perfectly fine. Based on your</p> <p>12 knowledge of -- of this account and your knowledge of</p> <p>13 the Fiserv system and -- and the document in front of</p> <p>14 you, are there any screens missing that would reflect</p> <p>15 any communications with Mr. Brim?</p> <p>16 A. No. I mean, the -- the notes are all in</p> <p>17 order.</p> <p>18 Q. So if there was a communication between Dell</p> <p>19 Financial Services and Mr. Brim it would be reflected</p> <p>20 in Exhibit 6?</p> <p>21 A. Yes.</p> <p>22 Q. Ms. Garlock, if you would turn to Page 4 of</p> <p>23 Exhibit 6. In the middle of the screen shot there are</p> <p>24 the capital letters "OPNED."</p> <p>25 A. Uh-huh.</p>	<p>23</p> <p>1 the date that Dell Financial Services charged off</p> <p>2 Mr. Brim's account? Strike that. I'm going to ask you</p> <p>3 an easier question.</p> <p>4 A. Okay.</p> <p>5 Q. Looking at Page 6 --</p> <p>6 A. Yes.</p> <p>7 Q. -- of Exhibit 6, is there anything on that</p> <p>8 page that allows you to state with specificity the date</p> <p>9 that Dell Financial Services charged off Mr. Brim's</p> <p>10 account?</p> <p>11 A. Yes.</p> <p>12 Q. And what was that date?</p> <p>13 A. On May 16, 2005.</p> <p>14 Q. And how do you know that based on Page 6?</p> <p>15 A. This "CHG OFF" means charge-off, and that is</p> <p>16 the charge-off date.</p> <p>17 Q. And this is in the lower left quadrant of the</p> <p>18 screen shot on Page 6?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Turning to Page 7 of Exhibit 6, in the top</p> <p>21 center of the screen shot it says, "Payment History."</p> <p>22 A. Correct.</p> <p>23 Q. What is this screen or this part of the Fiserv</p> <p>24 system designed to track?</p> <p>25 A. It holds the last six payments the customer</p>
<p>22</p> <p>1 Q. What does that mean?</p> <p>2 A. That's when the account was opened.</p> <p>3 Q. And are the numbers next to that entry</p> <p>4 September 14th, 2004?</p> <p>5 A. Yes, sir.</p> <p>6 Q. And is that the date that Mr. Brim's account</p> <p>7 was opened?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Do you know if that was also the date that</p> <p>10 Mr. Brim made a purchase of Dell products?</p> <p>11 A. The purchase date -- yes. According to</p> <p>12 Exhibit 1, the order date was September 14th.</p> <p>13 Q. Turn to Page 5 of Exhibit 6. On the left-hand</p> <p>14 side it says "CURR BAL." Does that stand for current</p> <p>15 balance?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And next to it it says, "\$1381.01"?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Do you see that? What does that current</p> <p>20 balance reflect?</p> <p>21 A. That would be at the time of charge-off. If</p> <p>22 there was no other adjustments done, that's -- that's</p> <p>23 the current balance?</p> <p>24 Q. Is there anything on the first five pages of</p> <p>25 Exhibit 6 that allows you to identify with specificity</p>	<p>24</p> <p>1 has -- has made.</p> <p>2 Q. And so if any payments have been made by</p> <p>3 Mr. Brim as of the date the screen was printed, would</p> <p>4 they be reflected on Page 7?</p> <p>5 A. Yes, the last six payments.</p> <p>6 Q. And so is it fair to say that according to</p> <p>7 Dell Financial Services' records, on April 9th, 2010,</p> <p>8 when this screen shot was printed, no payments had been</p> <p>9 made on the account?</p> <p>10 A. That is correct.</p> <p>11 Q. Would you turn to Page 8, please? In the top</p> <p>12 left corner of the screen shot there is a term spelled</p> <p>13 "ASHI"?</p> <p>14 A. Yes, sir.</p> <p>15 Q. What is that?</p> <p>16 A. The -- ASHI is our note screen.</p> <p>17 Q. Will all of the page that contain notes</p> <p>18 regarding Mr. Brim's account have that designation in</p> <p>19 the top left corner?</p> <p>20 A. Yes, sir.</p> <p>21 Q. And on the very top left corner of each</p> <p>22 page -- we discussed these earlier, these -- these</p> <p>23 notes about how to read the account notes. And one of</p> <p>24 them says, "Call notes to be read by date from bottom</p> <p>25 to top"; is that accurate?</p>

	25		27
1	A. Correct, yes, sir.	1	so I do not -- I do not know if that was given to him
2	Q. So if we wanted to work through this	2	or not.
3	chronologically we would start at the bottom of each	3	Q. If you would, turn to Page 10 of Exhibit 6.
4	page --	4	Could you read the entry that bears a date of
5	A. Yes, sir.	5	January 13, 2005, time 12:50?
6	Q. -- And work towards the top?	6	A. Okay. From the bottom up?
7	A. Yes, sir.	7	Q. Please.
8	Q. If you will, look at the first note on that	8	A. "Customer called in and says that he paid off
9	page. Can you tell me when that note was entered?	9	the account in full for \$962.92 with the first
10	A. October 20th, 2004.	10	statement due date and says why he has a balance. Told
11	Q. And immediately next to that 10/20/2004 date,	11	to fax a bank statement for the payment research and
12	there is a "13:13." What is that?	12	gave the fax number." And then a name of Kevin.
13	A. That is a timestamp in military time.	13	Q. Based on Dell Financial Services' records,
14	Q. And will those -- will the date and the time	14	when did it first receive a bank statement, if ever,
15	reflect the time that the entry -- the date and time	15	from Mr. Brim?
16	the entry was actually made?	16	A. Can I go through the notes?
17	A. Correct.	17	Q. Yes.
18	Q. And is that true for each of the entries that	18	A. So when -- when we first got it -- I'm sorry,
19	are contained in the notes within Exhibit 6?	19	I'm sorry. Can you repeat the question?
20	A. Yes, sir.	20	Q. Do Dell Financial Services' notes reflect
21	Q. Within that first note there is a term CCI.	21	when, if ever, it received a bank statement from
22	Do you see that?	22	Mr. Brim?
23	A. Yes, sir.	23	A. Yes.
24	Q. What does that stand for?	24	Q. When was that?
25	A. "Customer called in."	25	A. On January 27th it shows a copy of the bank
	26		28
1	Q. And if the term "CCI" is used elsewhere in the	1	statement was forwarded.
2	notes, does it mean the same thing?	2	(Exhibit No. 7 marked)
3	A. Yes, sir.	3	Q. (BY MR. LANGLEY) Let me show you what I've
4	Q. Does CCI ever mean anything other than	4	marked as Exhibit 7.
5	"customer called in"?	5	MR. LANGLEY: Penny, this does not have a
6	A. Not that I know of.	6	Bates number, but this is the version of the Redstone
7	Q. Ms. Garlock, on Page 9 of Exhibit 6, under the	7	Federal Credit Union bank statement that was received
8	entry at the top of the page that bears a date of	8	pursuant to the subpoena.
9	December 2nd, 2004 with the time 15:56 --	9	MS. CAULEY: Okay.
10	A. Yes, sir.	10	Q. (BY MR. LANGLEY) Ms. Garlock, have you seen
11	Q. -- and the bottom line -- well, let me -- let	11	Exhibit 7 before?
12	me back up.	12	A. Yes, sir.
13	Can you read for me in -- in layman's	13	Q. What is it?
14	English what that entry says?	14	A. It is a copy of the customer's bank statement.
15	A. Okay. "Conferenced the call with phone pay	15	Q. Is this similar to what Dell Financial
16	escalations as per their advice gave ING number," and	16	Services received from Mr. Brim on January 27, 2005?
17	then there's the phone number.	17	A. Yes, sir.
18	Q. What is ING number?	18	Q. Was the bank statement marked as Exhibit 7
19	A. ING is short for iEnergizer.	19	sufficient for Dell to determine what happened with
20	Q. What does that mean?	20	Mr. Brim's payment?
21	A. It is one be of our third-party vendors.	21	A. No, sir.
22	Q. Does this mean that Mr. Brim was given the	22	Q. Does Dell Financial Services accept a bank
23	number to a third-party vendor on December 2nd, 2004?	23	statement alone as proof of payment?
24	A. It doesn't actually -- I -- I do not know. It	24	A. We can, yes.
25	shows it conferenced the call and has the phone number,	25	Q. In this situation, though, did Dell Financial



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.880.2546
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

<p style="text-align: right;">29</p> <p>1 Services accept the bank statement as sufficient proof 2 of payment?</p> <p>3 A. No, sir.</p> <p>4 Q. And why is that?</p> <p>5 A. There wasn't enough information to identify 6 exactly how the payment was made.</p> <p>7 Q. Looking at the bottom of the first page of 8 Exhibit 7 there's an entry on November 8th.</p> <p>9 A. Yes, sir.</p> <p>10 Q. Next to it, it says "Dell Financial Payment." 11 The amount is \$954.12. Do you see that?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Next to the entry that says "Dell Financial" 14 there are some numbers, "04116"?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Do you know what those numbers are?</p> <p>17 A. It's the date of the payment. So it would be 18 November 6, 2004.</p> <p>19 Q. So those numbers do not in any way identify 20 the payment?</p> <p>21 A. Correct.</p> <p>22 Q. Going back to Page 10 of Exhibit 6, there's an 23 entry at the top of the screen shot for January 19th, 24 2005. Do you see that?</p> <p>25 A. Yes, sir.</p>	<p style="text-align: right;">31</p> <p>1 A. "Customer called in asking if auto pay is 2 activated already or if we received the fax. Rep said 3 no. Transferred to DCC to verify."</p> <p>4 Q. What is auto pay?</p> <p>5 A. Auto pay is when the customer sets it up 6 for -- for Dell Financial Services to take the payment 7 out every month on their due date.</p> <p>8 Q. Based on the records that you have reviewed, 9 why would Mr. Brim have asked about auto pay if he was 10 contending that the payment already had been made in 11 full?</p> <p>12 A. I -- I do not know.</p> <p>13 MS. CAULEY: Object, calls for 14 speculation.</p> <p>15 Q. (BY MR. LANGLEY) What does DCC mean in that 16 entry?</p> <p>17 A. I -- I do not know.</p> <p>18 Q. Turn to Page 16 of Exhibit 6. There's an 19 entry at the top of the screen shot for May 23rd of 20 2005 at 16:28.</p> <p>21 A. Uh-huh, yes, sir.</p> <p>22 Q. Would you read that entry, please?</p> <p>23 A. "Customer called in regarding payment not 24 posted on the account for the amount of \$954.12. 25 Balance on November 8, 2004, Check No. 041106, Redstone</p>
<p style="text-align: right;">30</p> <p>1 Q. Would you read that entry?</p> <p>2 A. "Customer called in very upset why his payment 3 not posted. That's why he is in collections already. 4 NASHI, same case, has happened to previous rep. Wants 5 to talk to Dell manager not to sup. He wants 6 American."</p> <p>7 Q. Is "sup" an abbreviations for supervisor?</p> <p>8 A. Yes, sir.</p> <p>9 Q. And when it says, "NASHI, same case has 10 happened to previous rep," is that just a reference to 11 the fact that the notes say that a similar call already 12 had been placed?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Going back to the bottom of the screen shot on 15 Page 10 of Exhibit 6, is that the first occasion that 16 Dell Financial Services asked Mr. Brim to send 17 information?</p> <p>18 A. According to the notes, yes.</p> <p>19 Q. But as of January 19th, 2005, when Mr. Brim 20 called back in, had Dell Financial Services received 21 the information it requested?</p> <p>22 A. It does not show, no.</p> <p>23 Q. Turn to Page 12 of Exhibit 6. At the bottom 24 of the screen shot there's an entry on January 25th, 25 2005. Would you read that entry, please?</p>	<p style="text-align: right;">32</p> <p>1 Federal Credit Union." And "Jojo."</p> <p>2 Q. Is the information entered here about the 3 balance, the check number, and the credit union 4 information provided by the customer?</p> <p>5 A. It -- it does not say. I do not know.</p> <p>6 Q. Would it -- could it have come from someplace 7 else?</p> <p>8 A. Sure. Yes.</p> <p>9 Q. Turn to Page 17 of Exhibit 6. Based on the 10 entries on the screen shot on Page 17 of Exhibit 6, can 11 you tell whether or not Mr. Brim sent his bank 12 statement to Dell Financial Services again?</p> <p>13 A. Yes.</p> <p>14 Q. And did he send his bank statement again?</p> <p>15 A. Yes.</p> <p>16 Q. And on what date was that?</p> <p>17 A. September 8, 2005.</p> <p>18 Q. The note in the center of the page bearing a 19 time of 11:47 --</p> <p>20 A. Uh-huh.</p> <p>21 Q. -- what does that entry say?</p> <p>22 A. "Customer faxed bank statement, forward to 23 Diana Stearns to put a rush on research. Will call 24 customer back," and then a phone number.</p> <p>25 Q. And so had Mr. Brim faxed his bank statement</p>

	33	35
1 again shortly before or contemporaneous with that		1 detail report, correct?
2 entry?		2 A. Yes, sir.
3 A. Yes.		3 Q. Is it uncommon for Dell Financial Services to
4 Q. And then what does the next entry state?		4 ask a customer to provide a transactional detail
5 A. "Called customer. He will go to his bank		5 report?
6 during lunch to get transaction detail report from his		6 A. No, sir.
7 bank."		7 Q. This sort of thing happens regularly at Dell
8 Q. Who made that entry?		8 Financial Services?
9 A. That was one of our recovery agents.		9 A. Yes, sir.
10 Q. And do you know that based on the initials		10 Q. And are banks usually willing to comply with
11 that are immediately to the -- to the left of the date?		11 that?
12 A. Correct. Correct.		12 A. Yes, sir.
13 Q. And the two entries we just discussed appear		13 Q. Does Dell Financial Services ever contact the
14 to have been made by someone with the initials AJT?		14 banks directly to request these type of documents?
15 A. Correct.		15 A. No, sir.
16 Q. Do you know who that?		16 Q. Turn to Page 18 of Exhibit 6. On 10/21/05 at
17 A. Yes, I do.		17 14:33 there's an entry in the center of the page.
18 Q. Who is that?		18 A. Yes, sir.
19 A. Angela Tennent.		19 Q. Can you read that entry?
20 Q. Who is Diana Stearns, if you know?		20 A. "BBB advised to keep working with Angela and
21 A. She was working in the cash department at the		21 advised she needs the transaction detail from his
22 time.		22 bank."
23 Q. So on September 8, 2005, shortly after		23 Q. What is BBB?
24 Mr. Brim had just sent a second copy of his bank		24 A. Better Business Bureau.
25 statement, Dell Financial Services asked for a		(Exhibit No. 8 marked)
	34	36
1 transactional detailed report, correct?		1 Q. (BY MR. LANGLEY) Let me show you what's been
2 A. Correct.		2 marked as Exhibit 8 --
3 Q. Did Mr. Brim ever provide that transactional		3 A. Yes, sir.
4 detail report?		4 Q. -- which bears a Bates label --
5 A. No, sir.		5 MR. LANGLEY: And, Penny, this is a
6 Q. Is "transactional detail report" a term of art		6 plaintiffs' Bates label of 0004.
7 in your industry?		7 Q. (BY MR. LANGLEY) Ms. Garlock, what is
8 A. I'm not sure "art." Can you define that?		8 Exhibit 8?
9 Q. Let me ask a better question.		9 A. It is the complaint activity report from the
10 A. Okay.		10 Better Business Bureau.
11 Q. What is a transactional detail report?		11 Q. Is this something that you have seen before?
12 A. A transaction detail report is details of		12 A. Not before two days ago.
13 payment made by the bank. So it will show exactly how		13 Q. Within the entries on Exhibit 8 there is
14 that payment was made; either electronic, wire, check,		14 someone identified from Dell Financial Services as
15 and will also show the -- the additional information,		15 Esperanza Clouston?
16 if it was electronic or wire, what banking account		16 A. Yes, sir.
17 information it was sent to; if it was check, have the		17 Q. Do you know Esperanza Clouston?
18 check number. Will also show where -- where the		18 A. Yes, sir.
19 payment was made to. It will show -- also have		19 Q. Is Esperanza Clouston the person at Dell
20 additional information such as the account number, a		20 Financial Services who's charged with communicating
21 name, and/or a social security number with it.		21 with the Better Business Bureau?
22 Q. Earlier we had looked at Exhibit 4. Do you		22 A. At the time, yes. I'm not -- I apologize.
23 still have that in front of you?		23 I'm not sure what she does now.
24 A. Yes. It's right here.		24 Q. Are the entries that purport to have come from
25 Q. And you had identified that as a transactional		25 Esperanza Clouston on behalf of Dell Financial Services



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.880.2546
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

<p>37</p> <p>1 accurate -- complete and accurate to the best of your 2 knowledge?</p> <p>3 A. Yes, sir.</p> <p>4 MS. CAULEY: Object to form and to the 5 witness' knowledge. She said she had not seen this 6 before two days ago. And she's not personally 7 responsible for the information contained in Exhibit 8.</p> <p>8 Q. (BY MR. Langley) Ms. Garlock, you're here 9 today on behalf of Dell Financial Services, correct?</p> <p>10 A. Yes, sir.</p> <p>11 Q. And you've reviewed the document marked as 12 Exhibit 8 prior to this deposition?</p> <p>13 A. Prior to today.</p> <p>14 Q. Prior to today?</p> <p>15 A. Two -- two days ago, yes.</p> <p>16 Q. And you've had an opportunity to determine 17 whether the documents and the communications are what 18 they purport to be?</p> <p>19 A. Can you rephrase that? I'm sorry.</p> <p>20 Q. Do you have any reason to doubt that the 21 entries that purport to have been made by Dell 22 Financial Services on the document marked as Exhibit 8 23 are not, in fact, complete and accurate entries of what 24 Dell told the Better Business Bureau?</p> <p>25 A. No.</p>	<p>39</p> <p>1 is?</p> <p>2 A. Just from personal experience, it's a dispute 3 that you do with the credit bureau.</p> <p>4 Q. Do you have anything do at all with responding 5 to credit bureaus upon receipt of --</p> <p>6 A. No, sir.</p> <p>7 Q. -- disputes?</p> <p>8 A. No, sir.</p> <p>9 Q. Turn to Page 19 of Exhibit 6. At the bottom 10 of the page there is an entry on 11/8/2005.</p> <p>11 A. Yes, sir.</p> <p>12 Q. What is that entry?</p> <p>13 A. "Gave collections VAK phone as further 14 contact."</p> <p>15 Q. What is VAK?</p> <p>16 A. It's one of our collection agencies.</p> <p>17 Q. Turn to Page 21 of Exhibit 6. How many 18 separate entries are there on Page 21 of Exhibit 6?</p> <p>19 A. There's three separate entries.</p> <p>20 Q. Does that mean there are three separate calls?</p> <p>21 A. No. No, sir.</p> <p>22 Q. How many different calls does -- strike that. How many different calls are reflected on 23 Page 21 of Exhibit 6?</p> <p>24 A. Two.</p>
<p>38</p> <p>1 Q. Staying with Page 18 of Exhibit 6, the entry 2 above the one we just discussed --</p> <p>3 A. Uh-huh.</p> <p>4 Q. -- as dated November 8, 2005, what is that 5 entry?</p> <p>6 A. "Received credit dispute from Equifax," and it 7 gives a control number. "Customer disputes amount. I 8 verified info. Advised the account charged off with 9 \$1,381 balance. Advised the account was closed at 10 credit grantor's request."</p> <p>11 (Exhibit No. 9 marked)</p> <p>12 Q. (BY MR. Langley) I'm showing you what I've 13 marked as Exhibit 9 --</p> <p>14 A. Uh-huh.</p> <p>15 Q. -- which is a four-page document that includes 16 Dell Bates labels 42, 41, 39, and 40.</p> <p>17 Ms. Garlock, can you identify this 18 document?</p> <p>19 A. I'm -- I'm not very familiar. I -- credit 20 bureau disputes is not my field of work.</p> <p>21 Q. Do you know what this document is?</p> <p>22 A. I -- I know what it is, yes.</p> <p>23 Q. What -- what is it?</p> <p>24 A. Credit bureau dispute form.</p> <p>25 Q. Do you know what the purpose of these forms</p>	<p>40</p> <p>1 Q. And which is the first one?</p> <p>2 A. October 9th of 2006.</p> <p>3 Q. At what time?</p> <p>4 A. 15:45.</p> <p>5 Q. And what is the entry?</p> <p>6 A. "Customer called in to know about the 7 collection's phone number. Gave the number and asked 8 the customer to contact them. Paul."</p> <p>9 Q. Okay. And what's the second entry?</p> <p>10 A. For the customer call in?</p> <p>11 Q. Yes.</p> <p>12 A. Okay. "Customer called in. Wanted to inquire 13 about the account and informed Tim that he has to get 14 in touch with the ARS department and he disconnected 15 the call. Don."</p> <p>16 Q. What is the ARS department?</p> <p>17 A. I believe it's the collection agency.</p> <p>18 Q. What does it mean to "disconnect the call"?</p> <p>19 A. The customer hung up.</p> <p>20 Q. Based on Dell Financial Services' records, is 21 that the last direct communication that it had with 22 Mr. Brim?</p> <p>23 A. Yes, sir.</p> <p>24 Q. At the time of that last communication with 25 Mr. Brim on October 9th, 2006, had Mr. Brim provided</p>

<p style="text-align: right;">41</p> <p>1 the transactional detail report requested by Dell 2 Financial Services?</p> <p>3 A. No, sir.</p> <p>4 MR. LANGLEY: Do y'all want to take a 5 short break, maybe two or three minutes?</p> <p>6 MR. ANDRESS: Sure.</p> <p>7 MR. LANGLEY: Okay.</p> <p>8 Penny, are you okay with that.</p> <p>9 MS. CAULEY: That's fine.</p> <p>10 THE VIDEOGRAPHER: We are off the record 11 at 10:55. (Recess from 10:55 a.m. to 11:05 a.m.)</p> <p>13 THE VIDEOGRAPHER: We are on the record 14 at 11:05.</p> <p>15 Q. (BY MR. LANGLEY) Ms. Garlock, how did 16 Mr. Brim make his payment in November of 2004?</p> <p>17 A. It was made over the phone.</p> <p>18 Q. Can you explain that?</p> <p>19 A. Customer calls in and the -- the checking 20 account information is taken, so the customer advises 21 how much he wants to pay and then we take their bank 22 account routing number and checking account number.</p> <p>23 Q. Under the terms of the Dell Financial Services 24 credit agreement, is there any advantage to paying it 25 that way?</p>	<p style="text-align: right;">43</p> <p>1 A. Okay. That -- that there was still a balance 2 on the account and we still had not received proof of 3 payment for this account.</p> <p>4 Q. And would your answer be the same if Midland 5 called in in March of 2009?</p> <p>6 A. Yes.</p> <p>7 Q. And would your answer be the same if Midland 8 had contacted Dell in February of 2010?</p> <p>9 A. Yes.</p> <p>10 MR. LANGLEY: I would like to offer 11 Exhibits 1 through 9, and I have no further questions 12 at this time.</p> <p>13 Thank you very much.</p> <p>14 THE WITNESS: Okay. Thank you.</p> <p>15 EXAMINATION</p> <p>16 BY MS. CAULEY:</p> <p>17 Q. Ms. Garlock --</p> <p>18 A. Yes, ma'am.</p> <p>19 Q. -- my name is Penny Cauley.</p> <p>20 A. Yes, ma'am.</p> <p>21 Q. I represent Jamon Brim in this action that 22 we're here about today. Can you tell me how long 23 you've been employed at Dell?</p> <p>24 A. Yes. I have been employed with Dell since 25 August of 2002.</p>
<p style="text-align: right;">42</p> <p>1 A. It's -- it will get credited -- the receive 2 date will be for that day.</p> <p>3 Q. At the time Dell Financial Services sold 4 Mr. Brim's account to Midland, did Dell Financial 5 Services believe the account was valid and payable?</p> <p>6 A. No.</p> <p>7 Q. At the time of the sale -- at the time -- let 8 me ask the question again.</p> <p>9 A. Okay. Yeah. Sorry.</p> <p>10 Q. At the time Dell Financial Services sold 11 Mr. Brim's account to Midland --</p> <p>12 A. Uh-huh.</p> <p>13 Q. -- did Dell Financial Services believe the 14 account was due and payable?</p> <p>15 A. Yes. Sorry.</p> <p>16 Q. And -- and did Dell Financial Services, in 17 fact, believe the account was due and payable until 18 August of 2010?</p> <p>19 A. Yes, sir.</p> <p>20 Q. And so if Midland had contacted Dell in August 21 of 2008 and inquired about the account, what would Dell 22 Financial Services' response have been?</p> <p>23 MS. CAULEY: Object, calls for 24 speculation.</p> <p>25 Q. (BY MR. LANGLEY) You can go ahead and answer.</p>	<p style="text-align: right;">44</p> <p>1 Q. And that -- during that time since August of 2 2002 have you always worked as an accounts receivable 3 supervisor?</p> <p>4 A. No, ma'am.</p> <p>5 Q. How long have you been an accounts receivable 6 supervisor?</p> <p>7 A. Since August of 2009.</p> <p>8 Q. What were your duties prior to August of 2009?</p> <p>9 A. I would assist with payment research as well 10 as posting payments for -- for about three years.</p> <p>11 Q. So from August 2006 to August of 2009, you 12 were assisting with payment research and also posting 13 of payments?</p> <p>14 A. Yes, ma'am.</p> <p>15 Q. And what did you do before that?</p> <p>16 A. Prior to that I was in the transactional 17 collections department.</p> <p>18 Q. And did you work as a collector?</p> <p>19 A. No, ma'am. I was -- I apologize. I don't 20 remember what my title was. But we actually supported 21 the agencies. So we would provide any information 22 that -- that they needed from us or any assistance that 23 they needed.</p> <p>24 Q. And those are outside agencies who were 25 retained by Dell to collect on the accounts?</p>



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.880.2546
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

<p style="text-align: right;">45</p> <p>1 A. Yes, that's correct. 2 Q. Okay. And during your time from August of 3 2006 to August of 2009 when you were working as an 4 assistant in payment research -- 5 A. Yes, ma'am. 6 Q. -- can you tell us, please, how many employees 7 worked in the payment research area of Dell Financial? 8 A. Three specifically titled for payment 9 research. 10 Q. I'm sorry? 11 A. Three. 12 Q. Okay. And what was that afterwards? 13 A. The -- specifically titled for payment 14 research. 15 Q. Okay. And in 2006, from August forward, did 16 you ever, as part of your duties in payment research, 17 research Mr. Brim's payment to learn what happened with 18 his payment? 19 A. No, ma'am. 20 Q. And did you ever review the account or perform 21 any type of payment research in 2007? 22 A. No, ma'am. 23 MR. ANDRESS: Ms. Cauley, this is 24 Keith Andress. For the purposes of your question, are 25 you asking the witness in her individual capacity or</p>	<p style="text-align: right;">47</p> <p>1 Q. It's just that Dell Financial posted it to 2 another customer's account? 3 A. Correct. 4 Q. And as part of your duties in payment 5 research, have you had other accounts that you've dealt 6 with where payments were posted to other customers' 7 accounts rather than the correct account? 8 A. Yes, ma'am. 9 Q. And that's not uncommon at Dell Financial, is 10 it? 11 MR. ANDRESS: Object. What do you mean 12 "uncommon"? I'm not -- I don't really understand the 13 relevance of this question in regards to the trial 14 subpoena sent by Midland. 15 MS. CAULEY: Well, there's been a lot of 16 testimony about what Mr. Brim did or did not do, and 17 I'm questioning Ms. Garlock on what Dell Financial did 18 or did not do. 19 MR. ANDRESS: And I think she's testified 20 to that, and now you're asking about other accounts. 21 And I think that's outside the scope of this 22 deposition. She certainly has -- 23 MS. CAULEY: I'll rephrase my question. 24 Q. (BY MS. CAULEY) Ms. Garlock, in your 25 three years in the payment research department did you</p>
<p style="text-align: right;">46</p> <p>1 Dell? Could you please specify. 2 MS. CAULEY: Yes. I'm asking in her 3 individual capacity as an employee of Dell Financial 4 who was assigned and worked in the payment research 5 department. 6 Q. (BY MS. CAULEY) Ms. Garlock, did you ever 7 perform any type of payment research on Mr. Brim's 8 account any time during -- from August of 2006 to 9 August of 2009 while you were working in the payment 10 research area? 11 A. No, ma'am. 12 Q. Now, if you will, please, refer to Defendants' 13 Exhibit 4, which is the transactional research 14 information. 15 A. Yes, ma'am. 16 Q. And on that Exhibit 4, on Page 2, it shows 17 that it was a telephone? 18 A. Correct. 19 Q. Okay. And the -- the payment of \$954.12 did 20 actually go to Dell Financial Services on November 6 of 21 2004, correct? 22 A. Yes, ma'am. 23 Q. So Dell actually got their money for 24 Mr. Brim's account on November 8th of 2004? 25 A. Yes, ma'am.</p>	<p style="text-align: right;">48</p> <p>1 handle other customer disputes wherein the customer 2 claimed they had made a payment and it had actually 3 been misapplied to another customer's account? 4 A. Yes, ma'am. 5 Q. And the notes, if you will go, please -- I 6 believe it's Exhibit 6. It's the Fiserv account notes. 7 A. Yes, ma'am. 8 Q. Exhibit 6. 9 A. Uh-huh. 10 Q. If you could pull Exhibit 6. 11 A. Yes, I have that here. 12 Q. Okay. And if Midland Funding or Midland 13 Credit Management had made any communications with 14 Dell, those communications would be reflected in 15 Defendants' Exhibit 6; is that correct? 16 A. I do not know the answer to that question. 17 Q. In preparing for this deposition, did you 18 review any documentation whatsoever regarding any 19 communications from Midland Funding or Midland Credit 20 Management to Dell after the sale of this account to 21 Midland Funding regarding Mr. Brim's dispute the 22 account had previously been paid in full? 23 A. No, ma'am, I did not. 24 Q. And if Midland Credit Management's witness 25 testified that Midland Credit Management and Midland</p>



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.880.2546
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

<p style="text-align: right;">49</p> <p>1 Funding never contacted Dell Financial Services you 2 would agree with that, correct?</p> <p>3 A. I --</p> <p>4 MR. LANGLEY: Objection, because it 5 assumes facts not in evidence as phrased.</p> <p>6 Q. (BY MS. CAULEY) Ms. Garlock, if Midland 7 Credit Management testifies at trial regarding this 8 case and their witness testified that Midland Credit 9 Management and Midland Funding never contacted Dell 10 Financial Services in response to a credit dispute from 11 Mr. Brim, you don't have any information to disagree 12 with that; is that correct?</p> <p>13 A. I do not have any information on that.</p> <p>14 Q. And if you would please turn to Page 8 of 15 Exhibit 6.</p> <p>16 A. Yes, ma'am.</p> <p>17 Q. And previously you testified regarding the 18 entry of October 20th, 2004?</p> <p>19 A. Yes, ma'am.</p> <p>20 Q. At that -- on that entry it indicates that the 21 customer called in and wanted the address changed, 22 which was done.</p> <p>23 A. Uh-huh.</p> <p>24 Q. And then the statement was to be resent; is 25 that correct?</p>	<p style="text-align: right;">51</p> <p>1 account, which is -- was made over the phone. 2 Transferred to phone pay escalation."</p> <p>3 Q. Okay. And do you know the employee 4 represented by the initials NN1?</p> <p>5 A. No, ma'am.</p> <p>6 Q. But according to Dell Financial's notes, as of 7 December 2nd, less than 30 days after the payment was 8 made, Mr. Brim called in stating that he had made the 9 payment over the phone and his call was transferred to 10 phone pay escalations?</p> <p>11 A. Yes, ma'am.</p> <p>12 Q. Now, this iEnergizer, where is that company 13 located?</p> <p>14 A. They are located in India.</p> <p>15 Q. And this company is responsible for posting 16 payments on behalf of Dell Financial?</p> <p>17 A. They're responsible for taking the payments.</p> <p>18 Q. For taking the payments and entering the 19 account information to where the payment will be 20 posted?</p> <p>21 A. Yes, ma'am.</p> <p>22 Q. And there are no notes contained within 23 Exhibit 6 regarding any communications from Dell 24 Financial to iEnergizer regarding a request for 25 research on this payment, correct?</p>
<p style="text-align: right;">50</p> <p>1 A. That's what the notes show, yes.</p> <p>2 Q. Okay. And then the notes go on to say, 3 "Informed about a 25-day grace period, due date being 4 November 4th, balance being \$934.78"; is that correct?</p> <p>5 A. Yes, ma'am. Yes, ma'am.</p> <p>6 Q. Okay. And at that time the notes indicate 7 that Mr. Brim wanted to make a payment by CC?</p> <p>8 A. Yes, ma'am.</p> <p>9 Q. And is "CC" credit card?</p> <p>10 A. Yes, ma'am.</p> <p>11 Q. And then if you go up to the next entry on 12 October 20th, 2004 at 13:14, is that a continuation of 13 the first entry note?</p> <p>14 A. Yes, ma'am, uh-huh.</p> <p>15 Q. All right. And that is a continuation about, 16 "Informed him about balance transfer check and other 17 modes of payment"; is that right?</p> <p>18 A. Yes, ma'am.</p> <p>19 Q. Okay. Then if you'll turn to Page 9, there's 20 an entry -- if you'll look at the entry dated 21 December 2nd, 2004 at 15:52?</p> <p>22 A. Yes, ma'am.</p> <p>23 Q. Can you please read that entry for us?</p> <p>24 A. "Customer called in to say that he has paid 25 the amount over the phone for full balance on the</p>	<p style="text-align: right;">52</p> <p>1 A. Not -- not that I can see, no.</p> <p>2 Q. And if you'll turn to Page 10, the first entry 3 on January 13, 2005 --</p> <p>4 A. Uh-huh.</p> <p>5 Q. -- "The customer called in and says that he 6 paid off the account in full for \$962.92 within the 7 first statement due date and says why he has a balance, 8 told to fax the bank statement for payment research and 9 gave the fax number," correct?</p> <p>10 A. Correct.</p> <p>11 Q. On this entry of January 13th, 2005, there's 12 no notation that any other document other than a bank 13 statement was necessary?</p> <p>14 A. Correct.</p> <p>15 Q. Okay. And then on the entry for January 19th, 16 2005, it indicates that Mr. Brim called in and was very 17 upset that his payment was not posted and he was in 18 collections already?</p> <p>19 A. Yes, ma'am.</p> <p>20 Q. And if you'll turn to Page 11 on January 19th, 21 2005, 14:33 --</p> <p>22 A. Yes, ma'am.</p> <p>23 Q. -- "Customer called in regarding payment. 24 Told that not received. Told to fax bank statement 25 NT." I guess that's the rest of statement?</p>

<p style="text-align: right;">53</p> <p>1 A. Yes, ma'am. 2 Q. Okay. So, again, Mr. Brim was told to fax 3 another bank statement but was never told any other 4 information would be necessary? 5 A. At that time, yes. 6 Q. And if you'll go back to Page 7. 7 A. Okay. 8 Q. As of the date that Exhibit 6 was printed 9 there's no account payment showing. But as you sit 10 here and testify today on behalf of Dell Financial 11 there's no dispute that full payment was made by 12 Mr. Brim? 13 A. Can you rephrase that question? I'm sorry. 14 Q. Certainly. On Page 7 -- you testified in 15 response to Mr. Langley's questions that there was no 16 payment evidenced on Page 7 of Defendants' Exhibit 6; 17 is that right? 18 A. Correct. As of April 9, 2010, yes, there 19 was -- there shows no payments received for this 20 customer. 21 Q. Thank you. And as you sit here today, Dell 22 Financial now has confirmation that it did, in fact, 23 receive payment in full from Mr. Brim on November 6, 24 2004? 25 A. That was the date that the payment was made to</p>	<p style="text-align: right;">55</p> <p>1 Q. And who was that? 2 A. Ann Mendiola. Do you need me to spell her 3 last name? 4 Q. Yes, please. 5 A. Okay. M-e-n-d-i-o-l-a. 6 Q. And when did you request Ms. Mendiola to 7 assist you in the research of this account? 8 A. I don't know the exact date, but I believe it 9 was in August of 2010. 10 Q. So even when you became the accounts 11 receivables supervisor in August of '09, you retained 12 some responsibilities for payment research? 13 A. Yes. It was -- it's my team that handles the 14 payment research cases. 15 Q. And were you the person actually responsible 16 for receiving Exhibit 4 and researching this payment 17 that was made to Dell Financial? 18 A. Yes, ma'am. 19 MR. ANDRESS: And, Penny, can you clarify 20 the date? You say she became responsible for 21 researching. What date are you talking about? 22 MS. CAULEY: I'm sorry. She testified 23 she became the supervisor in August of '09, and then 24 she just testified that in August 2010 she was 25 responsible for researching the payment made to Dell</p>
<p style="text-align: right;">54</p> <p>1 Dell Financial Services, but Dell Financial Services 2 did not locate that payment until August of 2010 when 3 we got the transaction detail report. 4 Q. Right. But we looked at Exhibit 4, the 5 transactional detail report -- 6 A. Uh-huh. 7 Q. -- and it indicates that Dell Financial 8 actually received the money on November 6 of 2004, 9 correct? 10 A. Correct. The money was received. It was 11 posted to another customer's account. 12 Q. Right. But Dell received the money? 13 A. Correct. 14 Q. Are any of the notes represented in Exhibit 6, 15 were any of those notes entered by you personally? 16 A. No, ma'am. 17 Q. Have you had any conversations with any of the 18 individuals who actually entered any of the notes 19 represented in Exhibit 6? 20 A. No, ma'am. 21 Q. Have you had any conversations with any other 22 employees at Dell Financial regarding Mr. Brim's 23 account? 24 A. I did have one of my employees assist in the 25 research of this account.</p>	<p style="text-align: right;">56</p> <p>1 Financial at that time. 2 MR. ANDRESS: Okay. Fair. Thank you. I 3 just wanted to make sure that we were not unclear about 4 2004 versus 2009, 2010. 5 THE WITNESS: Uh-huh. 6 Q. (BY MS. CAULEY) Other than Ms. Mendiola, have 7 you had conversations with anyone else at Dell 8 Financial? 9 A. Just the Dell Financial counsel. 10 Q. Okay. And have you had any conversations with 11 any employees at Midland Credit Management? 12 A. No, ma'am. 13 Q. If you'll turn -- let me see if I can -- to 14 Page 18 in Exhibit 6. 15 A. Yes, ma'am. 16 Q. The only entry that is contained within 17 Exhibit 6 regarding any type of notice filed with the 18 Better Business Bureau is the entry on October 21st, 19 2005? 20 A. Yes, ma'am. 21 Q. There's no entry in Dell Financial's notes 22 regarding when that complaint filed with the Better 23 Business Bureau was actually received? 24 A. Not in the notes of the system, no. 25 Q. And you haven't had any conversations with</p>

<p style="text-align: right;">57</p> <p>1 Ms. Esperanza Clouston?</p> <p>2 A. No, ma'am.</p> <p>3 Q. And I believe you testified that you don't</p> <p>4 have any responsibility with respect to the handling of</p> <p>5 disputes through the credit reporting agencies?</p> <p>6 A. That is correct.</p> <p>7 Q. And you're not familiar with the process of an</p> <p>8 ACDV or any of Dell Financial's responses?</p> <p>9 A. That is correct. I'm not familiar with that.</p> <p>10 Q. If you'll turn to Page 19 of Exhibit 6.</p> <p>11 A. I'm sorry. What was after Page 19?</p> <p>12 Q. Page 19 of Exhibit 6.</p> <p>13 A. Okay.</p> <p>14 Q. And the entry for November 8th, 2005 at 15:28,</p> <p>15 the very -- the very first entry on the bottom of the</p> <p>16 page.</p> <p>17 A. Okay.</p> <p>18 Q. Does that look like a partial note to you</p> <p>19 since it says, "Gave collection back phone as further</p> <p>20 contact"?</p> <p>21 A. I apologize. I'm not sure what you mean by</p> <p>22 "partial."</p> <p>23 Q. Well, it doesn't indicate that Mr. Brim called</p> <p>24 in.</p> <p>25 A. Correct.</p>	<p style="text-align: right;">59</p> <p>1 Funding?</p> <p>2 A. No, ma'am.</p> <p>3 Q. And to the best of your knowledge, Dell</p> <p>4 Financial never contacted Redstone Federal Credit Union</p> <p>5 to research any further the payment by Mr. Brim in</p> <p>6 2004, 2005, or 2006?</p> <p>7 A. Correct. Based on the information that I have</p> <p>8 seen I do not show that.</p> <p>9 Q. Are you familiar with what documents are</p> <p>10 provided when Dell Financial sells an account?</p> <p>11 A. No, ma'am.</p> <p>12 MS. CAULEY: That's all the questions I</p> <p>13 have. Thank you, Ms. Garlock.</p> <p>14 THE WITNESS: Thank you.</p> <p>15 MR. LANGLEY: Keith, do you have any?</p> <p>16 MR. ANDRESS: I don't.</p> <p>17 MR. LANGLEY: I've got just a couple of</p> <p>18 follow-ups to Ms. Cauley's questions.</p> <p>19 FURTHER EXAMINATION</p> <p>20 BY MR. LANGLEY:</p> <p>21 Q. Ms. Garlock, Ms. Cauley had asked you some</p> <p>22 questions about an entry at the bottom of Page 19 of</p> <p>23 Exhibit 6.</p> <p>24 A. Yes, sir.</p> <p>25 Q. And the entry appears to have been made by</p>
<p style="text-align: right;">58</p> <p>1 Q. But it does indicate that a phone number was</p> <p>2 given as further contact.</p> <p>3 A. Uh-huh.</p> <p>4 Q. In your reading of that note, would you</p> <p>5 presume that Mr. Brim had, in fact, called in on</p> <p>6 November 8th, 2005?</p> <p>7 A. No. I would not know why that note was placed</p> <p>8 on there.</p> <p>9 Q. So you have no information about why a number</p> <p>10 was given or who it was given to?</p> <p>11 A. Correct. I have no information on that.</p> <p>12 Q. And if you look at the note for</p> <p>13 November 15th, 2005, there is an entry that a dispute</p> <p>14 was received from TransUnion with a control number,</p> <p>15 correct?</p> <p>16 A. I'm sorry. What was that date again?</p> <p>17 Q. November 15th, 2005. It's on Page 19.</p> <p>18 A. Yes. Yes, according to the notes it is</p> <p>19 showing a credit bureau dispute was received.</p> <p>20 Q. Are you familiar with the agreement governing</p> <p>21 the sale of accounts between Dell Financial and Midland</p> <p>22 Funding?</p> <p>23 A. No, ma'am.</p> <p>24 Q. Have you reviewed the agreement governing the</p> <p>25 sale of accounts between Dell Financial and Midland</p>	<p style="text-align: right;">60</p> <p>1 someone whose employee code is LW1.</p> <p>2 A. Okay. Yes, sir.</p> <p>3 Q. If you'll look at the preceding page, which is</p> <p>4 Page 18 of Exhibit 6 --</p> <p>5 A. Uh-huh.</p> <p>6 Q. -- is that the same person who made the entry</p> <p>7 at the top of the screen shot on Page 18?</p> <p>8 A. Yes, it is. And the same time, it looks like.</p> <p>9 Q. And based on that information, do you think</p> <p>10 that the entry at the bottom of Page 19 that Ms. Cauley</p> <p>11 asked you about is just a continuation of the entry at</p> <p>12 the top of Page 18?</p> <p>13 A. Yes. Based on the initials, the date, and the</p> <p>14 time, yes, that would be a continued note.</p> <p>15 Q. Ms. Garlock, sometimes a bank statement alone</p> <p>16 is sufficient for Dell Financial Services to track a</p> <p>17 payment, correct?</p> <p>18 A. Yes, that's correct.</p> <p>19 Q. In the instance that we're here about today,</p> <p>20 though, it was not?</p> <p>21 A. Correct.</p> <p>22 Q. Ms. Cauley asked you some questions about when</p> <p>23 the payment was received?</p> <p>24 A. Yes.</p> <p>25 Q. Take a look at Exhibit 7, which is the bank</p>

Rachel Garlock

January 7, 2011

<p>1 statement from Redstone Federal Credit Union. 2 A. Yes, sir, uh-huh. 3 Q. Is there anything on that bank statement that 4 proved to Dell Financial Services that it had, in fact, 5 received the money paid by Mr. Brim? 6 A. I mean, it shows that it -- it has our name. 7 But even with our name, especially with on-line 8 payments, stuff like that, anybody could have entered 9 that. So at this time when we -- of the date of the 10 bank statement, I would say, no, it -- it still doesn't 11 show proof that we actually got the payment. It shows 12 proof that a payment is showing to be sent to Dell 13 Financial Services. 14 Q. Was the first proof that Dell Financial 15 Services had that the payment was actually received by 16 Dell the transactional detail report marked as 17 Exhibit 4? 18 A. Uh-huh. Yes, this was the first proof that we 19 actually showed that -- that we were actually able to 20 locate that the payment was indeed at Dell Financial 21 Services -- 22 Q. If you would, look at -- 23 A. -- for that date. 24 Q. Oh, I'm sorry. 25 A. That's okay.</p>	<p>61</p> <p>1 CHANGES AND SIGNATURE RACHEL GARLOCK 2 JANUARY 7, 2011 3 PAGE LINE CHANGE REASON 4 _____ 5 _____ 6 _____ 7 _____ 8 _____ 9 _____ 10 _____ 11 _____ 12 _____ 13 _____ 14 _____ 15 _____ 16 _____ 17 _____ 18 _____ 19 _____ 20 _____ 21 _____ 22 _____ 23 _____ 24 _____ 25 _____</p> <p>62</p> <p>1 Q. If you would, look at Exhibit 8. 2 A. Yes, sir. 3 Q. Does Dell Financial Services have a copy of 4 this Better Business Bureau complaint activity report 5 in its files? 6 A. Yes. 7 Q. And is it Dell's practice to maintain copies 8 of Better Business Bureau reports when complaints 9 arise? 10 A. Yes, sir. 11 MR. LANGLEY: No further questions. 12 MS. CAULEY: I have nothing further. 13 MR. LANGLEY: Thank you, Ms. Garlock. 14 THE WITNESS: Okay. Thank you. 15 THE VIDEOGRAPHER: We are off the record 16 at 11:31. 17 (Proceedings concluded at 11:31 a.m.)</p>
	<p>63</p> <p>1 _____ 2 _____ 3 _____ 4 _____ 5 _____ 6 _____ 7 _____ 8 _____ 9 _____ 10 _____ 11 _____ 12 _____ 13 _____ 14 _____ 15 _____ 16 _____ 17 _____ 18 _____ 19 _____ 20 _____ 21 _____ 22 _____ 23 _____ 24 _____ 25 _____</p> <p>64</p> <p>1 _____ 2 _____ 3 _____ 4 _____ 5 _____ 6 _____ 7 I, RACHEL GARLOCK, have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above. 8 _____ 9 _____ 10 RACHEL GARLOCK 11 THE STATE OF _____) 12 COUNTY OF _____) 13 Before me, _____, on this 14 day personally appeared RACHEL GARLOCK, known to me (or 15 proved to me under oath or through 16 _____) (description of identity card or 17 other document) to be the person whose name is 18 subscribed to the foregoing instrument and acknowledged 19 to me that they executed the same for the purposes and 20 consideration therein expressed. 21 Given under my hand and seal of office this 22 day of _____, 2011. 23 _____ 24 _____ 25 NOTARY PUBLIC IN AND FOR THE STATE OF _____</p>

Rachel Garlock

January 7, 2011

65

1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE WESTERN DISTRICT OF TEXAS

3 JAMON T. BRIM,)
 4 Plaintiff,)
 VS.) CA NO. 5:10-CV-369-IPJ
 5 DELL FINANCIAL SERVICES,)
 LLC, ET AL)
 6 Defendants.)

7
 8 REPORTER'S CERTIFICATION
 9 DEPOSITION OF RACHEL GARLOCK
 10 JANUARY 7, 2011

11 I, JANALYN REEVES, a Certified Shorthand Reporter
 12 in and for the State of Texas, do hereby certify to the
 following:

13 That the witness, RACHEL GARLOCK, was duly sworn by
 14 me and that this transcript of the oral deposition is a
 15 true record of the proceedings held and the testimony
 16 given by the witness;

17 That the original transcript, along with any
 18 exhibits marked therein, was submitted on _____,
 19 2011, to _____ for examination and
 signature by the witness;

21 That pursuant to information given to me at the
 22 time said testimony was taken, the following includes
 23 counsel for all parties of record:

24 Ms. Penny Hays Cauley, Attorney for the
 Plaintiff

25

66

1 Mr. Eric B. Langley, Attorney for Midland
 Credit Management

2 Mr. D. Keith Andress, Attorney for the Dell
 Financial Services

3
 4 That \$ _____ is the
 5 deposition officer's charges to the Defendants for
 6 preparing the original deposition transcript and any
 7 copies of exhibits;

8 I further certify that I am neither counsel
 9 for, related to, nor employed by any of the parties or
 10 attorneys in the action in which this proceeding was
 11 taken, and further that I am not financially or
 12 otherwise interested in the outcome of the action.

13 I further certify that before the completion
 14 of the deposition, the Deponent and/or the
 15 Plaintiff/Defendant did request to review the
 16 transcript.

17 Certified to by me this _____ day of
 18 _____, 2011.

19
 20 
 21 JANALYN REEVES, Texas CSR 3631
 Expiration Date 12/31/2012
 3101 Bee Caves Road
 Centre II, Suite 220
 Austin, Texas 78746
 (512) 328-5557
 Firm Registration 283
 24 EBS No. 199789



Toll Free: 800.880.2546
 Facsimile: 512.328.8139

Suite 220
 3101 Bee Caves Road
 Austin, TX 78746
www.esquiresolutions.com